

Applicant: Bernalillo County
Zoning, Building, Planning &
Environmental Health Department
111 Union Station St. SE
Albuquerque, NM 87111

Property Owner: Gabriel J. Garcia Jr. and
Betty Jean Garcia
7554 Rio Grande Blvd.
NW, Albuquerque, NM
87114

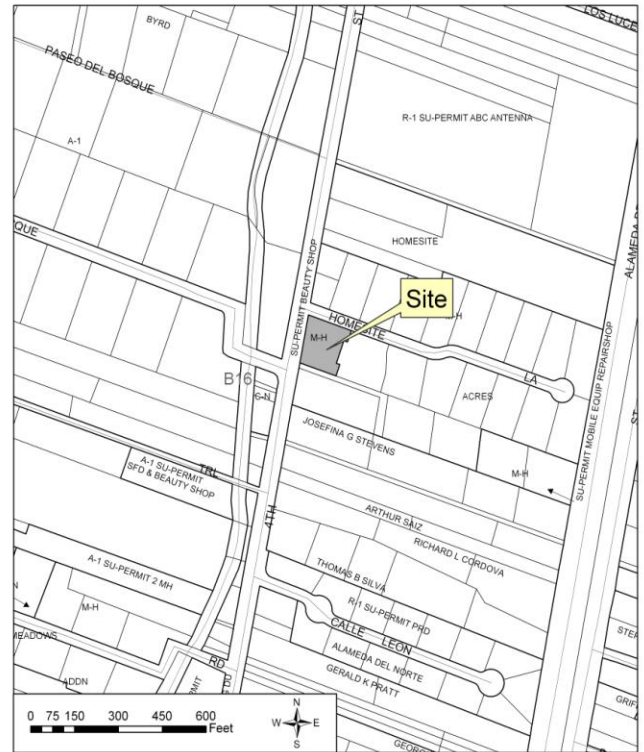
Location: 10216 4th St. NW

Property Size: .5 acres (approximately)

Existing SUP: Special Use Permit for
Mobile Home for
Watchman/Caretaker and a
Beauty Shop

Zoning: M-H

Recommendation: Cancellation



Summary: The Zoning, Building, Planning & Environmental Health Department proposes cancellation of an existing Special Use Permit for a Mobile Home for Watchman/Caretaker and a Beauty Shop (CSU-84-28). Despite contact from the Zoning Enforcement Office, a mobile office, a machine shop, and miscellaneous materials and debris continue to be stored on the property contrary to the approved site plan. The landscaping on the property also does not comply with the approved plan. The property owners have neither abated the violations nor made application to amend the SUP to allow the unpermitted activities.

Staff Contact: Catherine VerEecke, Program Planner

- Attachments:**
1. Notice of Special Use Permit (8/23/84)
 2. Notices of violation (2007, 2000)
 3. Notice of intent to cancel SUP (December 3, 2009)
 4. Zone Atlas page, land use map.
 5. Approved site plan (3/20/85)

CSU-84-28 Zoning, Building, Planning & Environmental Health Department requests cancellation of a Special Use Permit for a Mobile Home for Watchman/Caretaker and a Beauty Shop located on Lot 15, Homesite Acres, located at 10216 4th Street NW, zoned M-H, and containing approximately .50 acres. (B-16)

AREA CHARACTERISTICS AND ZONING HISTORY

Surrounding Zoning & Land Uses

	Zoning	Land use
Site	M-H/Special Use Permit for a Mobile Home for Watchman/Caretaker and Beauty Shop	Mobile home, beauty shop, machine shop
North	M-H	Single family residential
South	M-H	Single family residential
East	M-H	Single family residential
West	R-1	Apartments

BACKGROUND

Special Use Permit History & Overview

On August 21, 1984, the Board of County Commissioners authorized an amendment to an existing Special Use Permit for a Beauty Shop to add a mobile home for a watchman/caretaker on the property (Attachment 1). The underlying zoning of the property has been M-H. The original Special Use Permit on the property was for a beauty shop, which had existed prior to the establishment of County Zoning (NCU-852, CZ-80-49). The approved site plan, dated 3/20/85, included the beauty shop, the mobile home, a storage shed, and existing and proposed landscaping (Attachment 5—Approved Site Plan). The site plan also included a chain link fence along the north property line and on a portion of the west property line along Fourth St. It also included landscaping within the site and along the south property line. Conditions of approval were specified by the County Planning Commission, including a 15 foot rear yard setback, mobile home skirting, landscaping in the front of the mobile home, and relocation of the shed (See Attachment 1—Notice of Decision).

Since the time of the approval of the Special Use Permit request, there have been several violations of the Special Use Permit. These have included storage of inoperative vehicles and repair of small engines (Attachment 2—Notices of Violation). In addition, a free standing sign and a solid wood fence have also been located on the property associated with the small engine repair business. In 2007, a letter was sent from the Zoning Enforcement Office indicating that the property was not in compliance with the approved site plan, including landscaping (Attachment 2—Notices of Violation), but no actions were taken by the property owners to address the violations.

On January 4, 2010, the Zoning Administrator sent the property owners a letter of intent to cancel the Special Use Permit (Attachment 3—Letter of Intent). The property owners met with Planning staff, but the violations still were not addressed. Staff has recently noted that landscaping has not been re-established, the small engine repair business (open storage of machines and materials, sign, fence) is still located on the property, and the property now includes contractor's equipment and a mobile office. Fencing (chain link) on the site still does not comply with the approved site plan. Some additional communication has taken place between staff and the property owners, but the violations have still not been addressed.

Subject Site & Surrounding Properties

The property is located on the east side of Fourth St. and on the south side of Homesite Lane (about one mile north of Alameda Blvd.). The vicinity of the site is primarily residential with M-H, R-1, or A-1 zoning. However, a property about 200 feet south of the subject site has C-N zoning, although it is being used for residential purposes. Another property about 600 feet to the south has A-1 zoning with a Special Use Permit for a Single Family Dwelling and a Beauty Shop.

APPLICABLE REGULATIONS & POLICIES

Comprehensive Zoning Ordinance of Bernalillo County

Section 18. Special Use Permit Regulations.

H. Violation of the approved development plan or any condition imposed by the Board of County Commissioners in approving an application filed under this section shall constitute a violation of this ordinance and shall be subject the permit to cancellation pursuant to this section.

1. Procedures for Cancellation:

(a) The Zoning Administrator or his designee has the duty of routinely inspecting the Special Use Permit to insure compliance with the approved development plan and conditions imposed by the Board of County Commissioners.

(b) If the Zoning Administrator or his designee shall find that any of the conditions of the approved development plan or the conditions imposed by the Board of County Commissioners have not been complied with, they shall notify in writing, the owner, tenant, agent, occupant, or person in charge of the premises, indicating the nature of the violation and ordering its correction within 30 days.

(c) In an event that a violation of the approved development plan or conditions imposed by the Board of County Commissioners continues, the Zoning Administrator or his designee may institute the appropriate action to cancel the Special Use Permit pursuant to this section of proceed against the owner, tenant, agent, occupant, or person in charge of the premises, pursuant to the Penalty section of this Ordinance.

(d) Any violation o the approved development plan or conditions imposed by the Board of County Commissioners that continues for a period of 30 days after notification by certified mail receipt return requested shall subject the Special Use Permit to cancellation pursuant to the process outlined under Section 18.E., Subsections 1, 2, and 3. In the event that the Special Use Permit is cancelled, all references to said Special Use Permit shall be removed from the official zoned maps by the County Planning Department.

2. In the event a use authorized by a Special Use Permit is not established within 12 months of the date of approval or is discontinued for a period of 12 months, the County Planning Department shall send notification by certified mail return receipt requested requiring the property owner, tenant, agent, occupant, or person in charge of the premises to state in writing within 30 days his or her intention to establish or continue said permit. If the property owner, tenant, agent, occupant, or person in charge of the premises does not declare in writing his or her intention to establish or continue said permit, then authorization or approval may be cancelled and relevant documents, if any, shall be removed from the official zone maps by the County Planning Department.

ANALYSIS

This request seeks to cancel a Special Use Permit for a Mobile Home for a Watchman/Caretaker and a Beauty Shop on a .5 acre property located on the southeast corner of Fourth St. and Homesite Rd. The original zoning of the property was M-H but with a Special Use Permit for a Beauty Shop, which had existed prior to the establishment of County Zoning. The Special Use Permit was amended to allow the addition of the watchman/caretaker's mobile home on the site, and these uses are generally consistent with the residential uses and small businesses nearby the site, which include mobile homes and neighborhood commercial uses. However, since the granting of the current Special Use Permit, there have been several changes on the property that are contrary to the approved site plan and the conditions of approval. The violations include the addition of a small engine repair business with an office, open storage of machines and materials, a wood fence, and a sign, all of which are not shown on the approved site plan. The violations also include improper skirting of the mobile home, and the failure to establish or maintain landscaping along the south property line and in the yards of the mobile home, as shown on the site plan. There should also be a 15 foot setback between the mobile home and the rear property line.

As Special Use Permits authorize land uses that are not expected or generally allowed to occur within a zone, compliance with any and all conditions is required. The subject property has a number of violations of the Special Use Permit on the property which must be addressed to bring the property into compliance. There has been some indication on the part of the property owners to address some of the violations of the Special Use Permit. However, it should be noted that this matter has been turned over from the Zoning Enforcement Office for cancellation because of the overall limited effort demonstrated since the 1980s to remedy all the outstanding violations and ensure observance of the applicable standards. Although the Special Use Permit was granted for the life of the use, the uses on the site have expanded beyond the scope of the original Special Use Permit and the site, which abuts a single family residence that may be adversely impacted by the uses on the site. In any case, persistent noncompliance on the part of the property owners necessitates the recommendation of cancellation from the Planning Department.

Proposed Findings for Cancellation

1. This is a request for cancellation of a Special Use Permit for a Mobile Home for Watchman/Caretaker and a Beauty Shop located on Lot 15, Homesite Acres, located at 10216 4th Street NW, zoned M-H, and containing approximately .50 acres..
2. This matter is a result of continued violations of the Special Use Permit (CSU-84-28) and the corresponding site development plan approved for the permit, 3/20/85.
3. The property has failed to comply with the approved site development plan in that a machine shop, including open storage of engines, equipment, and materials and an office and sign have been located on the property without the proper zoning. The property also does not meet the landscaping requirement shown on the approved site plan, and the mobile home is not properly skirted.
4. The Bernalillo County Zoning Administrator notified the property owners of noncompliance with the provisions of the Special Use Permit on January 4, 2010, as described in Section 18.H. of the Comprehensive Zoning Ordinance of Bernalillo County.
5. This decision removes the Special Use Permit (CSU-84-28) from the property, and reverts the zoning on the site back to the underlying zoning designation of M-H.

RECOMMENDATION:

Cancellation of CSU-84-28.

Catherine VerEecke
Program Planner